



Exempt Action Final Regulation Agency Background Document

Agency name	DEPT OF MEDICAL ASSISTANCE SERVICES
Virginia Administrative Code (VAC) citation	12 VAC 30-20-540
Regulation title	Administration of Medical Assistance Services: Informal Appeals.
Action title	Informal Provider Appeals Update
Final agency action date	July, 1, 2011
Document preparation date	

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The *Code of Virginia* (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The *Code of Virginia* (1950) as amended, § 32.1-324, authorizes the Director of DMAS to administer and amend the Plan for Medical Assistance according to the Board's requirements. The Medicaid authority as established by § 1902 (a) of the *Social Security Act* [42 U.S.C. 1396a] provides governing authority for payments for services. The section of the State Plan for Medical Assistance that is affected by this action is 12 VAC 30-20-540.

In 2010 the General Assembly amended Va. Code 32.1-325(E), which provides the right to request appeal to Medicaid providers who have been terminated and to those whose applications to be enrolled as Medicaid providers have been denied. The General Assembly added the following language to 32.1-325(E): “*All such requests shall be in writing and be received within 15 days of the date of the receipt of such notice.*” This change was signed into law and is now a permanent part of Va. Code 32.1-325.

In addition to the Virginia Code, DMAS has promulgated a regulation that sets deadlines for providers to file written requests for informal appeals – 12 VAC 30-20-540 (Informal appeals). 12 VAC 30-20-540(A) provides that “Providers appealing a DMAS decision shall file a written notice of informal appeal with the DMAS Appeals Division within 30 days of the provider’s receipt of the decision.” Because the current language of 12 VAC 30-20-540(A) provides a 30-day deadline for the filing of informal appeals of DMAS actions, and does not specifically address provider terminations or denials, DMAS has concluded that the 30-day appeal deadline of 12 VAC 30-20-540(A) is not in conformity with the 15-day informal appeal deadline for provider terminations and denials. As such DMAS has no discretion to conform 12 VAC 30-20-540(A) to Va. Code 32.1-325(E) by adding language to establish a separate 15-day informal appeal deadline for provider terminations and denials. This change is exempt under Code of Virginia 2.2-4006(A)(4)(a) because it is “necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved.” The purpose of this final exempt action is to conform 12 VAC 30-20-540(A) to the Virginia Code by the addition of the following language:

A. Providers appealing a DMAS decision shall file a written notice of informal appeal with the DMAS Appeals Division within 30 days of the provider's receipt of the decision. Providers appealing the termination or denial of their Medicaid agreement shall file a written notice of appeal with the DMAS Appeals Division within 15 days of their receipt of the notice of termination or denial. Providers appealing adjustments to a cost report shall file a written notice of informal appeal with the DMAS Appeals Division within 90 days of the provider's receipt of the notice of program reimbursement. The notice of informal appeal shall identify the issues being appealed. Failure to file a written notice of informal appeal within 30 days of receipt of the decision or within 90 days of receipt of the notice of program reimbursement shall result in dismissal of the appeal. Failure to file a written notice of informal appeal within 15 days of receipt of the notice of termination or denial shall result in dismissal of the appeal.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

I hereby approve the foregoing Agency Background document with the attached amended State Plan pages, Administration of Medical Assistance Services: Informal Appeals (12 VAC 30-20-540) and adopt the action stated therein. I certify that this final regulatory action has completed all the requirements of the Code of Virginia § 2.2-4012, of the Administrative Process Act.

Date

Gregg A. Pane, M.D., MPA, Director
Dept. of Medical Assistance Services

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; or encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents. It does not strengthen or erode the marital commitment, and will not decrease disposable family income.